

[SEE SIGNATURE PAGES FOR COUNSEL NAMES]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EDWARDS LIFESCIENCES LLC and
ENDOGAD RESEARCH PTY LIMITED,

Plaintiffs,

v.

COOK INCORPORATED and W.L.
GORE & ASSOCIATES, INC.,

Defendants.

No. C 03-3817 JSW (WDB)

~~PROPOSED~~ ORDER AND
STIPULATION REGARDING
ISSUANCE OF COMMISSION FOR
TAKING DEPOSITIONS IN
AUSTRALIA

Judge Jeffrey S. White
Magistrate Judge Wayne D. Brazil

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
A Professional Corporation

Plaintiffs, Edwards Lifesciences LLC and EndoGAD Research Pty Limited, and
Defendants, Cook Incorporated and W.L. Gore & Associates, Inc., by and through their
undersigned counsel, hereby submit this Joint Stipulation Regarding Issuance of Commission
for Taking Depositions in Australia. The stipulation is based on the following recitals.

WHEREAS, on May 9, 2007, the Court entered its Order Following Hearing on Plaintiffs'
Motion to Compel Defendant Cook; Defendant Cook's Motion to Compel; and Defendant
Gore's Motion to Compel (*see* Docket #473);

WHEREAS, the Order states, among other things, that Plaintiffs must offer Doctors Yu
and White for deposition (*see* Order at 2:20-24);

WHEREAS, Doctors Yu and White are Australian nationals who live and work in
Australia;

WHEREAS, the depositions of Doctors Yu and White are currently scheduled for June 27,
28, and 29 in Sydney, Australia, as indicated in the Notice of Deposition of Dr. Weiyun Yu
(attached as Exhibit A) and Notice of Deposition of Dr. Geoffrey White (attached as Exhibit B);

1 WHEREAS, Dr. White and Dr. Yu have previously appeared for depositions in the United
2 States in this action;

3 WHEREAS, Dr. White and Dr. Yu have agreed to voluntarily appear for further
4 depositions in Australia;

5 WHEREAS, the parties request that the Court issue a commission pursuant to FED. R. CIV.
6 P. 28(b) for purposes of taking these depositions in Australia;

7 NOW, THEREFORE, the parties jointly stipulate to the issuance of a commission by the
8 Court – directed to the attorneys representing the parties and the court reporter retained to attend
9 and transcribe the depositions – to administer the oath and take testimony in Australia from
10 these witnesses, pursuant to FED. R. CIV. P. 28(b).

11 Dated: June 18, 2007

By: s/ Hugh A. Abrams

12 David T. Pritikin
13 Hugh A. Abrams
14 Richard T. McCaulley
15 SIDLEY AUSTIN LLP
16 One S. Dearborn Street
17 Chicago, Illinois 60603

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555 California Street, Suite 5000
San Francisco, California 94104-1715

19 *Attorneys for Plaintiffs,*
20 EDWARDS LIFESCIENCES LLC and
21 ENDOGAD RESEARCH PTY LIMITED

22 Dated: June 18, 2007

By: s/ Jeffrey M. Nichols

23 Richard A. Kaplan
24 Thomas J. Filarski
25 Bradley G. Lane
26 Jeffrey M. Nichols
27 Julie L. Leichtman
28 BRINKS HOFER GILSON & LIONE
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Jeffrey E. Faucette (No. 193066)

1 Jason S. Takenouchi (No. 234835)
2 HOWARD RICE NEMEROVSKI CANADY
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5 Three Embarcadero Center, 7th Floor
6 San Francisco, California 94111-4024

Attorneys for Defendant,
COOK INCORPORATED

7 Dated: June 18, 2007

By: s/ Jennifer Bianrosa

8 David H. Pfeffer
9 Christopher K. Hu
10 Gerard A. Haddad
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13 3 World Financial Center
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15 Mark J. Linderman
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19 San Francisco, CA 94105

Attorneys for Defendant,
W.L. GORE & ASSOCIATES, INC.

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CANADY
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& RABKIN
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20 I, Jeffry M. Nichols, am the ECF User whose ID and password are being used to file this
21 [PROPOSED] ORDER AND STIPULATION REGARDING ISSUANCE OF COMMISSION
22 FOR TAKING DEPOSITIONS IN AUSTRALIA. In compliance with General Order 45, X.B.,
23 I hereby attest that Hugh A. Abrams and Jennifer Bianrosa have concurred in this filing.
24

25 Dated: June 18, 2007

By: s/ Jeffry M. Nichols

1 PURSUANT TO STIPULATION AND FED. R. CIV. P. 28(B), IT IS HEREBY
2 ORDERED that the attorneys representing the parties and/or the court reporter retained to attend
3 and transcribe the depositions of Dr. Weiyun Yu and Dr. Geoffrey White on June 27, 28 and 29,
4 2007, are commissioned to administer the oath and take testimony from the witnesses in
5 Australia.

6
7 **IT IS SO ORDERED:**

8 June 27, 2007
9 Date

10 Wayne D. Brazil
11 Magistrate Judge Wayne D. Brazil
12

13 HOWARD
14 RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
A Professional Corporation
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PROOF OF SERVICE

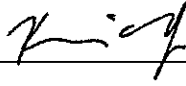
I, Kinson Yee, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Three Embarcadero Center, 7th Floor San Francisco, California 94111-4024. On June 18, 2007, I served the following document(s) described as: [PROPOSED] ORDER AND STIPULATION REGARDING ISSUANCE OF COMMISSION FOR TAKING DEPOSITIONS IN AUSTRALIA, as follows:

VIA E-MAIL & FEDERAL EXPRESS: Russell L. Johnson (rjohnson@sidley.com) Matthew T. Powers (mpowers@sidley.com) SIDLEY AUSTIN LLP 555 California Street, Suite 5000 San Francisco, California 94104-1715	VIA E-MAIL & FEDERAL EXPRESS: Mark J. Linderman (mlinderman@sonnenschein.com) John Querio (jquerio@sonnenschein.com) SONNENSCHN NATH & ROSENTHAL 525 Market Street, 26th Floor San Francisco, CA 94105
VIA E-MAIL & FEDERAL EXPRESS: David T. Pritikin (dpritikin@sidley.com) Hugh A. Abrams (habrams@sidley.com) Carrie W. Cotter (ccotter@sidley.com) SIDLEY AUSTIN LLP One S. Dearborn Street Chicago, Illinois 60603	VIA E-MAIL & FEDERAL EXPRESS: David H. Pfeffer (dpfeffer@morganfinnegan.com) Christopher K. Hu (chu@morganfinnegan.com) John T. Gallagher (jgallagher@morganfinnegan.com) Jennifer Bianrosa (jbianrosa@morganfinnegan.com) MORGAN & FINNEGAN, L.L.P. 3 World Financial Center New York, NY 10281-2101

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury that the foregoing is true and correct. Executed at San Francisco, California on June 18, 2007.



Richard A. Kaplan, *Pro Hac Vice*
 Thomas J. Filarski, *Pro Hac Vice*
 Bradley G. Lane, *Pro Hac Vice*
 Jeffry M. Nichols, *Pro Hac Vice*
 Julie L. Leichtman, *Pro Hac Vice*
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Attorneys for Defendant,
 COOK INCORPORATED

HOWARD
 RICE
 NEMEROVSKI
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 FALK
 & RABKIN
 A Professional Corporation

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

EDWARDS LIFESCIENCES LLC and
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Plaintiffs/Counterclaim
 Defendants,

v.

COOK INCORPORATED and
 W.L. GORE & ASSOCIATES, INC.,

Defendants/Counterclaim
 Plaintiffs.

Civil Action No. 03-3817 JSW (WDB)

**COOK'S NOTICE OF DEPOSITION OF
 WEIYUN YU**

Judge Jeffrey S. White
 Magistrate Judge Wayne D. Brazil

TO: COUNSEL OF RECORD ON THE ATTACHED SERVICE LIST

Pursuant to Magistrate Judge Brazil's Order dated May 9, 2007, PLEASE TAKE
 NOTICE that, commencing at 8:30 a.m. on June 28, 2007, at a conference room at the Shangri-

1 La Hotel Sydney, 176 Cumberland Street, The Rocks, Sydney NSW 2000, Australia, or at such
 2 other time and/or place as the parties mutually agree, Cook Incorporated, by its attorneys, will
 3 take the deposition of WEIYUN YU in connection with the above-captioned action.
 4

5 The deposition will take place upon oral examination pursuant to Federal Rule of Civil
 6 Procedure 30, and will be recorded by sound, sound-and-visual (e.g., video), and/or
 7 stenographic means before a notary public or other officer authorized by law to administer
 8 oaths. The deposition will continue from day-to-day until completed, with such adjournments as
 9 to time and place as may be necessary.
 10

11 You are requested to produce the witness at the stated time and place and are invited to
 12 attend and cross-examine.

13
 14 Dated: June 18, 2007

By:

Jeff Nichols
 Richard A. Kaplan
 Thomas J. Filarski
 Bradley G. Lane
 Jeffry M. Nichols
 Julie L. Leichtman
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 San Francisco, California 94111-4024

Attorneys for Defendant,
 COOK INCORPORATED

PROOF OF SERVICE

I, Jeff Nichols, declare:

I am a resident of the State of Illinois and over the age of eighteen years, and not a party to the within action. On June 18, 2007, I served the following document(s) described as: COOK'S NOTICE OF DEPOSITION OF WEIYUN YU,

VIA E-MAIL & FEDERAL EXPRESS:

Russell L. Johnson
(rljohnson@sidley.com)
Matthew T. Powers
(mpowers@sidley.com)
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I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Chicago, Illinois on June 18, 2007.



Richard A. Kaplan, *Pro Hac Vice*
 Thomas J. Filarski, *Pro Hac Vice*
 Bradley G. Lane, *Pro Hac Vice*
 Jeffry M. Nichols, *Pro Hac Vice*
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Attorneys for Defendant,
 COOK INCORPORATED

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
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Defendants/Counterclaim
 Plaintiffs.

Civil Action No. 03-3817 JSW (WDB)

**COOK'S NOTICE OF DEPOSITION OF
 GEOFFREY WHITE**

Judge Jeffrey S. White
 Magistrate Judge Wayne D. Brazil

TO: COUNSEL OF RECORD ON THE ATTACHED SERVICE LIST

Pursuant to Magistrate Judge Brazil's Order dated May 9, 2007, PLEASE TAKE
 NOTICE that, commencing at 8:30 a.m. on June 27, 2007, at a conference room at the Shangri-


La Hotel Sydney, 176 Cumberland Street, The Rocks, Sydney NSW 2000, Australia, or at such other time and/or place as the parties mutually agree, Cook Incorporated, by its attorneys, will take the deposition of GEOFFREY WHITE in connection with the above-captioned action.

The deposition will take place upon oral examination pursuant to Federal Rule of Civil Procedure 30, and will be recorded by sound, sound-and-visual (e.g., video), and/or stenographic means before a notary public or other officer authorized by law to administer oaths. The deposition will continue from day-to-day until completed, with such adjournments as to time and place as may be necessary.

You are requested to produce the witness at the stated time and place and are invited to attend and cross-examine.

Dated: June 18, 2007

By:


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Thomas J. Filarski
Bradley G. Lane
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San Francisco, California 94111-4024

Attorneys for Defendant,
COOK INCORPORATED

PROOF OF SERVICE

I, Jeff Nichols, declare:

I am a resident of the State of Illinois and over the age of eighteen years, and not a party to the within action. On June 18, 2007, I served the following document(s) described as: COOK'S NOTICE OF DEPOSITION OF GEOFFREY WHITE,

VIA E-MAIL & FEDERAL EXPRESS:

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